

AMENDED IN SENATE MARCH 7, 2007

SENATE BILL

No. 149

Introduced by Senator Hollingsworth

(Coauthors: Senators Cogdill and Dutton)

(Coauthors: Assembly Members Anderson, Fuller, Horton, Salas, and Strickland)

January 29, 2007

An act to add ~~Section 6399~~ *Sections 17053.36 and 23636* to the Revenue and Taxation Code, relating to freeze relief, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 149, as amended, Hollingsworth. ~~Sales and use tax: exemptions: Income taxes: credits:~~ freeze relief.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale of, or the storage, use, or other consumption in this state of, tangible personal property, and provides various exemptions from that tax. Existing law authorizes cities, counties, and cities and counties to impose local sales and use taxes or transactions and use taxes, and provides that exemptions from state sales and use tax are incorporated into those local taxes.

This bill would exempt from the sales and use tax qualified freeze relief products, as defined, sold to a qualified person, as defined, for agricultural use. This bill makes findings with regard to the state of emergency declared by the Governor due to the extreme low temperatures and freezing conditions that commenced on January 11, 2007.

Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state

~~sales and use taxes enacted by the Legislature are incorporated into the local taxes:~~

~~Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions:~~

~~This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.~~

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would authorize a credit against taxes for each taxable year beginning on or after January 1, 2007, in an amount equal to a portion of the sales or use tax paid or incurred during the taxable year, as provided, in connection with the qualified taxpayer's purchase and receipt of qualified freeze relief products, as defined, from January 11, 2007, to January 19, 2007, inclusive.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Conditions of extreme peril to the safety of persons and
- 4 property exist throughout the state as a result of extreme low
- 5 temperatures and freezing conditions.
- 6 (b) Beginning on January 11, 2007, the Governor declared a
- 7 state of emergency due to those weather conditions, which are
- 8 ongoing.
- 9 (c) The National Weather Service is projecting extremely cold
- 10 weather for an extended period of time throughout California.
- 11 (d) Severe cold weather conditions have historically caused
- 12 substantial financial damage to the agricultural crops and to the
- 13 industry that supports agriculture and negatively impacted the
- 14 people who work in the agricultural industry both economically
- 15 and physically.
- 16 (e) Attempts to protect the agricultural harvest throughout the
- 17 state from harm because of the freezing conditions continue.

1 ~~SEC. 2. Section 6399 is added to the Revenue and Taxation~~
2 ~~Code, to read:~~

3 ~~6399. (a) There are exempted from the taxes imposed by this~~
4 ~~part, the gross receipts from the sale in this state of, and the storage,~~
5 ~~use, or other consumption in this state of, qualified freeze relief~~
6 ~~products sold to a qualified person.~~

7 ~~(b) For purposes of this section:~~

8 ~~(1) “Qualified freeze relief product” means natural gas and~~
9 ~~gasoline.~~

10 ~~(2) “Qualified person” means a person using qualified freeze~~
11 ~~relief products for agricultural purposes.~~

12 ~~SEC. 3. Notwithstanding Section 2230 of the Revenue and~~
13 ~~Taxation Code, no appropriation is made by this act and the state~~
14 ~~shall not reimburse any local agency for any sales and use tax~~
15 ~~revenues lost by it under this act.~~

16 ~~SEC. 4. This act provides for a tax levy within the meaning of~~
17 ~~Article IV of the Constitution and shall go into immediate effect.~~

18 ~~SEC. 2. Section 17053.36 is added to the Revenue and Taxation~~
19 ~~Code, to read:~~

20 ~~17053.36. (a) For each taxable year beginning on or after~~
21 ~~January 1, 2007, there shall be allowed as a credit against the~~
22 ~~“net tax,” as defined in Section 17039, for the taxable year an~~
23 ~~amount equal to the portion of the sales or use tax, imposed by~~
24 ~~Part 1 (commencing with Section 6001) of Division 2, paid or~~
25 ~~incurred during the taxable year by a qualified taxpayer in~~
26 ~~connection with the qualified taxpayer’s purchase of qualified~~
27 ~~freeze relief products from January 11, 2007, to January 19, 2007,~~
28 ~~inclusive.~~

29 ~~(b) For purposes of this section:~~

30 ~~(1) “Agricultural purposes” means commercial crop production~~
31 ~~or greenhouse, nursery, and floriculture production.~~

32 ~~(2) “Crop production” means the growing of crops, plants,~~
33 ~~vines, or trees, and their seeds, by establishments like farms,~~
34 ~~orchards, groves, greenhouses, and nurseries that are primarily~~
35 ~~engaged in that growth.~~

36 ~~(3) (A) “Greenhouse, nursery, and floriculture production”~~
37 ~~means the growing of crops of any kind under cover or the growing~~
38 ~~of nursery stock and flowers by establishments primarily engaged~~
39 ~~in that growth.~~

1 (B) For purposes of this paragraph, “under cover” means
2 growth of a crop that occurs in a greenhouse, cold frame, cloth
3 house, or lath house.

4 (4) “Qualified county” means the Counties of El Dorado,
5 Fresno, Imperial, Kern, Kings, Madera, Merced, Monterey,
6 Riverside, San Bernadino, San Diego, San Luis Obispo, Santa
7 Barbara, Santa Clara, Stanislaus, Tulare, Ventura, and Yuba.

8 (5) “Qualified freeze relief product” means natural gas, that
9 is not piped directly to a qualified taxpayer, and gasoline.

10 (6) “Qualified taxpayer” means a person using qualified freeze
11 relief products for agricultural purposes in a qualified county,
12 that has proof of purchase and delivery of the qualified freeze
13 products during the period of January 11, 2007, to January 19,
14 2007, inclusive.

15 (c) The Franchise Tax Board may prescribe rules and
16 regulations necessary to carry out this section.

17 SEC. 3. Section 23636 is added to the Revenue and Taxation
18 Code, to read:

19 23636. (a) For each taxable year beginning on or after
20 January 1, 2007, there shall be allowed as a credit against the
21 “tax,” as defined in Section 23036, for the income year an amount
22 equal to the portion of the sales or use tax, imposed by Part 1
23 (commencing Section 6001) of Division 2, paid or incurred during
24 the taxable year by a qualified taxpayer in connection with the
25 qualified taxpayer’s purchase of qualified freeze relief products
26 from January 11, 2007, to January 19, 2007, inclusive.

27 (b) For purposes of this section:

28 (1) “Agricultural purposes” means commercial crop production
29 or greenhouse, nursery, and floriculture production.

30 (2) “Crop production” means the growing of crops, plants,
31 vines, or trees, and their seeds, by establishments like farms,
32 orchards, groves, greenhouses, and nurseries that are primarily
33 engaged in that growth.

34 (3) (A) “Greenhouse, nursery, and floriculture production”
35 means the growing of crops of any kind under cover or the growing
36 of nursery stock and flowers by establishments primarily engaged
37 in that growth.

38 (B) For purposes of this paragraph, “under cover” means
39 growth of a crop that occurs in a greenhouse, cold frame, cloth
40 house, or lath house.

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8 relief products for agricultural purposes in a qualified county,
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10 relief products during the period of January 11, 2007, to January
11 19, 2007, inclusive.

12 (c) The Franchise Tax Board may prescribe rules and
13 regulations necessary to carry out this section.

14 SEC. 4. This act provides for a tax levy within the meaning of
15 Article IV of the Constitution and shall go into immediate effect.